

OGC 74-1355  
8 August 1974

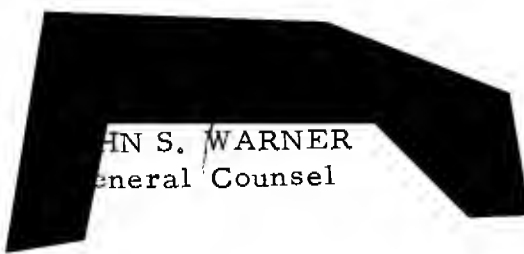
MEMORANDUM FOR: Director of Personnel

SUBJECT: CIA Retirement Rationale and the Age  
Discrimination Provisions of P.L. 93-259 --  
Fair Labor Standards Amendments of 1974  
(FLSA)

1. You have asked whether our Retirement Rationale (see attachment to OGC 74-0913) can be used to persuade the Civil Service Commission to grant the Agency a blanket exemption from the provisions of the subject law as they may relate to our retirement policy. This question apparently was prompted by the FPM Letter which transmitted the Commission's regulations under the age discrimination provisions of the FLSA. However, the regulation is almost identical to the statutory provision and adds nothing new. Thus, it seems that exemptions will be granted only upon a "determination that age is a bona fide occupational qualification" for each position.

2. Perhaps this matter should be raised informally with the Civil Service Commission. In the event the Commission is receptive to the Agency's position and will give us a blanket exemption, further action would be unnecessary. If our inquiry is not well received, then as you know, the Management Committee is planning to look at our existing early retirement policy.

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JOHN S. WARNER  
General Counsel